

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT  
NEW DELHI**

TA No.377/2009

[WP (Civil) No.6678/2008 of Delhi High Court]

Hoshiar Singh

.....Petitioner

Versus

Union of India & Others

.....Respondents

For petitioner: Sh. M.K. Gaur along with Sh. D.S. Yadav,  
Advocates.

For respondents: Dr. Ashwani Bhardwaj, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.  
HON'BLE LT. GEN. M.L. NAIDU, MEMBER.**

**ORDER  
18.01.2010**

1. The present petition was transferred from Hon'ble Delhi High Court to this Tribunal on its constitution.

2. Petitioner by this writ petition has prayed that the order dated 24.04.2006 may be declared illegal and arbitrary in not considering the case of the petitioner for grant of service pension

in terms of Regulation 9 of Pension Regulation for the Army. It is also prayed that respondents may be directed to consider the case of the petitioner in terms of Regulation 9 of the Pension Regulation for the Army for grant of service pension in DSC and consequently the petitioner may be entitled for grant of service pension from DSC with arrears of pension with interest.

3. The brief facts which are necessary for the disposal of the present petition are that the petitioner was enrolled in Indian Army in the year of 1960 and retired from Indian Army on 28.01.1979 from the rank of Havildar. Thereafter the petitioner was re-enrolled in the Defence Security Corps on 28.08.1980 and he was discharged on the rank of Subedar on 30.06.1995 on superannuation on completion of 14 years and 306 days of qualifying service for pension. Petitioner's papers were submitted and consequently by the Order dated 24.04.2006 the petitioner was informed that his second pension for serving in DSC cannot be given to him as he was short of 59 days. The petitioner approached Hon'ble Delhi High Court and Hon'ble Delhi High Court passed the order for disposing of his statutory appeal. His

statutory appeal was rejected. The petitioner again approached Hon'ble Delhi High Court by filing the present petition which was transferred to this Tribunal on its constitution.

4. A written was filed by the respondents and the respondents has contested the petition and submitted that the second pension of DSC cannot be granted to him as he is short of 59 days for qualifying service of 15 years. The Government has already issued the order dated 14<sup>th</sup> August, 2001 whereby the power has been delegated to the Service Headquarters to condone the delay from 6 months to 12 months. This is a fit case in which incumbent is only short of 59 days, therefore, authorities should have taken an objective attitude in condoning the delay. It appears that authorities are so obsessed that they do not wish to exercise their discretion, though the Government has already given them the power to condone the period from 6 months to 12 months. Looking into the facts and circumstances of the case, we condone the period of 59 days so as to make 15 years qualifying service for pension and the respondents are directed to grant DSC pension to the petitioner forthwith. All the arrears should be worked out and paid to the petitioner with 12% interest p.a. The

petitioner shall be continued to be paid his service pension. The petition is accordingly allowed. No order as to costs.

**A.K. MATHUR**  
(Chairperson)

**M.L. NAIDU**  
(Member)

New Delhi  
January 18, 2010